

TOWN OF DAVIE TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Marcie Nolan, AICP, Acting Development Services Director /
(954) 797-1101

PREPARED BY: Lise Bazinet, Planner II

SUBJECT: Code Amendment ZB (TXT) 9-1-07, Additions and Screen Enclosures to Single-Family Residential Dwellings with Legal Non-Conforming Setbacks Code Amendment.

AFFECTED DISTRICT: All Districts

ITEM REQUEST: **Schedule for Council Meeting**

TITLE OF AGENDA ITEM: AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE LAND DEVELOPMENT CODE, CHAPTER 12, ARTICLE III, USE REGULATIONS, DIVISION 5, NONCONFORMING USES AND STRUCTURES, SECTION 39, NONCONFORMING BUILDING AND STRUCTURES, TO CREATE AN EXCEPTION FOR ADDITIONS TO SINGLE FAMILY DWELLING WITH LEGAL NONCONFORMING SETBACKS; PROVIDING FOR INCLUSION IN THE TOWN CODE; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

REPORT IN BRIEF: The proposed text amendment to the Land Development Code allows single-family residential dwellings with legal-non-conforming side and rear yard setbacks to have additions and screen enclosures maintaining the required setbacks at the time of development of the site.

Over the years, the Town of Davie has gone through several zoning changes either through annexation or rewrites of the Land Development Code. These changes affect existing property owners by creating non-conforming setbacks. Currently, there is no provision in the code addressing these type of situations. When a property owner of a single-family residential dwelling built prior to current regulations wants to add to their existing house, and they cannot meet the new setbacks, they are required to apply for a variance. This process can take from three (3) to five (5) months. In addition, most of these single-family residential dwellings with non-conforming side and rear setbacks have limited area to add to their properties.

The proposed text amendment will eliminate recurring variance applications, and therefore, will streamline development process for single-family residential dwellings requiring only a building permit. Staff has researched other municipalities and found similar requirements in place.

The proposed text amendment will expedite the permit process and benefit single-family property owners with existing non-conforming dwellings only. Any other legal non-conforming site issues would not be affected by this proposed text amendment.

PREVIOUS ACTIONS: At the December 5, 2007 Town Council meeting, this item was tabled to the December 19, 2007 Town Council meeting (**Motion carried 3-0, Councilmembers Crowley and Starkey were absent**).

CONCURRENCES: At the November 14, 2007 Local Planning Agency meeting, Vice-Chair Stevens made a motion, seconded by Chair Bender, to approve. In a roll call vote, the vote was as follows: Chair Bender – yes; Vice-Chair Stevens – yes; Mr. Busey – yes; Mr. Pignato – absent; Ms. Turin – yes. (**Motion carried 4-0**)

FISCAL IMPACT: not applicable

Has request been budgeted? n/a

RECOMMENDATION(S): Staff recommends approval of this ordinance.

Attachment(s): Ordinance

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE LAND DEVELOPMENT CODE, CHAPTER 12, ARTICLE III, USE REGULATIONS, DIVISION 5, NONCONFORMING USES AND STRUCTURES, SECTION 39, NONCONFORMING BUILDING AND STRUCTURES, TO ALLOW ADDITIONS AND SCREEN ENCLOSURES TO SINGLE-FAMILY RESIDENTIAL DWELLING WITH LEGAL NON-CONFORMING SETBACKS TO MAINTAIN SUCH SETBACKS; PROVIDING FOR INCLUSION IN THE TOWN CODE; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Davie desires to make changes to the Land Development Code; and

WHEREAS, the Local Planning Agency of the Town of Davie held a public hearing on November 14, 2007; and

WHEREAS, the Town Council of the Town of Davie held a public hearing duly advertised as required by State Statutes.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA.

SECTION 1. The Division 5, of Article III of the Land Development Code of the Town of Davie, Florida (the "Town"), is hereby amended to read as follows:

DIVISION 5. NONCONFORMING USES AND STRUCTURES

Sec. 12-39. Nonconforming buildings and structures.

The lawful existence of a structure or building at the effective date of adoption of these regulations, although such structure or building does not conform to the property development regulations of these regulations for minimum lot area and dimension, minimum yard setback requirements, maximum building height, total floor area, lot coverage and minimum floor area requirements or other characteristics of the structure, or its location on the lot, may be continued so long as it remains otherwise lawful, subject to the following provisions:

(1) No such building or structure shall be enlarged upon or altered in any way that increases its nonconformity. Such building or structure or portion thereof may be altered

to decrease its nonconformity except as may be hereafter provided. Such nonconforming buildings or structures shall not be used as a basis for adding other structures or uses prohibited elsewhere in the same district.

Exception. Additions and screen enclosures to legally constructed single-family residential dwellings which exist with setbacks less than those required by the current town regulations shall be permitted provided such additional construction maintains the required setbacks at the time of development of the site, as shown in illustration 12-39A below.

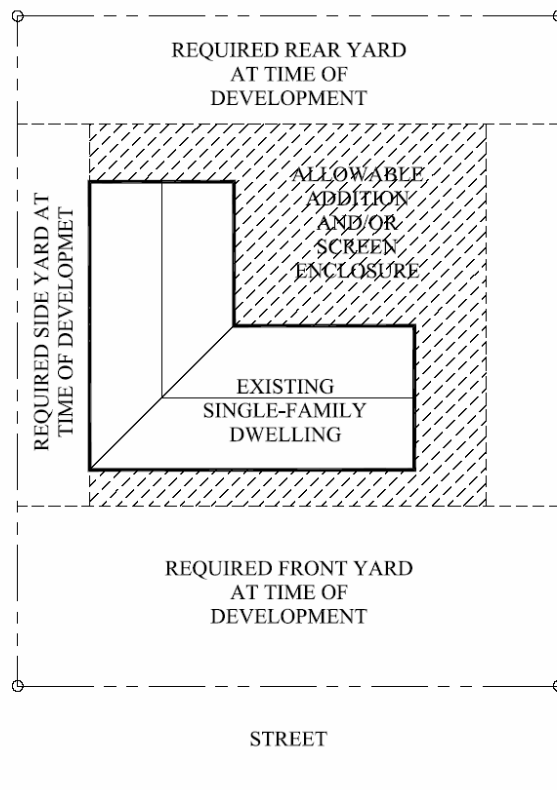


Illustration 12-39A

(2) Should such structure or building be destroyed by any means to an extent of more than twenty (20) percent of its assessed value at the time of destruction, as determined by the Broward County Property Appraiser, it shall not be reconstructed except in conformity with the provisions of these regulations and any other applicable regulations.

(3) Should such structure or building be destroyed by any means to an extent less than twenty (20) percent of its assessed value, it may be restored only upon application to the building and zoning department.

(4) Should such structure or building be moved for any reason for any distance whatever, it shall thereafter conform to the property development regulations for the district in which it is located after it is moved.

SECTION 4. All Ordinances or parts of Ordinances in conflict herewith are to the extent of such conflict hereby repealed.

SECTION 5. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion of this Ordinance.

SECTION 6. This ordinance shall take effect immediately upon its passage and adoption.

PASSED ON FIRST READING THIS ____ DAY OF _____, 2007

PASSED ON SECOND READING THIS ____ DAY OF _____, 2007

MAYOR/COUNCILMEMBER

ATTEST:

TOWN CLERK

APPROVED THIS ____ DAY OF _____, 2007